IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 3404 of 2005

Between:

M. Manaiah,. S/o. Kistaiah,
E.No. 100 992, R/o. Naidkuda (Post & Village), Sadasivapet

Mandal, Medak District.

..... PETITIONER

AND

1 The A.P.S.R.T.C., Rep. by its Depot Manager,
Sangareddy Depot, Medak District.
2 The A.P.S.R.T.C., Rep. by its Divisional Manager,
Sangareddy Division, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to call for the records from the respondents herein by issuing a writ, Order or Direction more particularly one in the nature of Writ of Mandamus by declaring the impugned order No. 02/104(45)/90-DM:SRD, dt. 24-7-1991 and confirmed by the 2nd respondent by proceedings No. P4/20(81)/91-DVM-SRD, dt. 16-06-1992 as arbitrary, illegal and contrary to law and violation of APSRTC (CCA) Regulations and also violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to restore all consequential benefits to the petitioner.

Counsel for the Petitioner:MR.P.SRIDHAR RAO

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following O R D E R:

The petitioner was working as a Conductor in the respondent-Corporation. He was issued a charge sheet on 05.07.1990 and after receiving the explanation of the petitioner, final order was passed on 24.07.1991 imposing the punishment of reducing the pay of the petitioner by two increments with cumulative effect duly treating the suspension period as 'Not on duty'. The petitioner questioned the order on the ground that reduction of two annual increments with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Challenging the proceedings dated 24.07.1991, the petitioner carried the matter in appeal before the second respondent, but the same was rejected. Hence this writ petition.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 12 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of two annual

increments without cumulative effect. However, the petitioner is not entitled for any monetary benefits.

The writ petition is accordingly disposed of with the above observation. No costs.

24.02.2005

Note:CC in two days

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usd

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. 2 CD copies
2. The Depot Manager, A.P.S.R.T.C., Sangareddy Depot,

   Medak District.

3) The Divisional Manager, A.P.S.R.T.C.,
   Sangareddy Division, Medak District.

*Form-NIC-OGS/WP{**SPJS**}*